IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23222 of 2004

Between:

Mohd.Haji S/o.Shaik Meera Saheb
Driver of Bheemgal Depot, APSRTC, Nizamabad District.

..... PETITIONER

AND

1 APSRTC rep by its Regional Manager Bheemgal Depot, Nizamabad District.
2 The Depot Manager, Bheemgal Depot, APSRTC Bheemgal, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, especially one in the nature of writ of Mandamus: i) declaring the Proceedings No.01/399(1)/04-BMGL dated 17.9.2004 issued by the respondent No.2 as illegal, arbitrary and set aside the same. ii) Consequently restore all the benefits, which were affected or reduced in terms of Procs.No.01/399(1)/04-BMGL, dated 17.9.04 duly treating the period of suspension as on duty and grant all other consequential benefits.

Counsel for the Petitioner:MR.K.VASUDEVA REDDY

Counsel for the Respondent Nos.1&2: MR.V.T.M.PRASAD

The Court at the stage of admission, made the following :

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ORDER:

This writ petition is filed to declare the proceedings of the 2nd respondent as illegal and for a consequential direction to him to restore the benefits.

The facts are in narrow compass. In pursuance of the departmental enquiry, 2nd respondent passed impugned proceedings No.01/399(1)/04-BMGL dated 17.9.2004 reducing two incremental stages of the petitioner for a period of two years with cumulative effect which shall have its effect on his future increments besides treating the period of suspension as not on duty for all purposes. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner contended that the charges are very negligible and the punishment is disproportionate to the alleged misconduct and therefore, prays to set aside the punishment.

On the other hand, the learned counsel appearing for the respondents opposed the

same on the ground that the alternate remedy available to the petitioner is to file an appeal before the 1st respondent who has to appreciate the evidence on record.

It is not the case of the petitioner that the findings are not based upon any evidence nor the jurisdiction of the 2nd respondent is under challenge. Availability of an alternate remedy is not a bar for exercising jurisdiction under Article 226 of the Constitution of India. At the same time, the parameters which are required to be invoked by this Court in such cases have not been met out in the writ petition.

Therefore, the writ petition is disposed of directing the petitioner to file an appeal before the 1st respondent and the same shall have to be considered in accordance with the Rules and Regulations of the respondent-Corporation. No order as to costs.

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15.12.2004

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To

1 APSRTC rep by its Regional Manager Bheemgal Depot, Nizamabad District.
2 The Depot Manager, Bheemgal Depot, APSRTC Bheemgal, Nizamabad

District.

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